



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

C-14J

March 8, 2011

VIA ELECTRONIC MAIL: dacrass@michaelbest.com

David A. Crass

Michael Best & Friedrich LLP

One South Pickney Street

Suite 700

Madison, WI 53703

Re: Ashland Lakefront Site

Dear Dave:

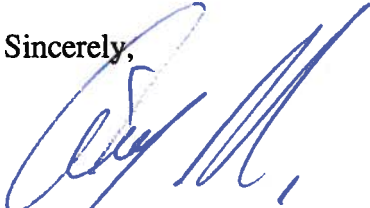
This is to provide you with notice that U.S. EPA has received a request under the Freedom of Information Act (FOIA) for the Gradient Allocation Report dated June 2, 2010, and the follow-up memorandum also from Gradient dated August 4, 2010. Both of these documents pertain to the Ashland Lakefront Site and were prepared for Northern State Power Company (NSP) and submitted to U.S. EPA. Both of these documents are marked "Confidential Communication; For Settlement Purposes Only" and in previous discussions you have stated your position that the documents should be exempt from release under FOIA as settlement communications.

Having received the FOIA request at issue, we have determined that there is no applicable exemption under FOIA for withholding the Allocation Report or memorandum and therefore we must produce it under applicable law.

As you know, Tom Benson and I forwarded a draft confidentiality agreement to you and counsel for the City of Ashland in order to attempt to protect settlement communications from release

and foster discussions between NSP and the City. While, the confidentiality agreement has not been signed, as a courtesy I am providing you notice that I plan to release the documents within the next two weeks. Please call if you would like to discuss this further.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Craig Melodia', is written over the word 'Sincerely,'.

Craig Melodia

Assistant Regional Counsel

Office of Regional Counsel

U.S. EPA Region 5

Cc: Thomas Benson, U.S. DOJ